

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 417**

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### Introduced by Assembly Member Beall

February 23, 2009

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An act to amend Sections 11758.42, 11758.46, and 11839.2 of the Health and Safety Code, relating to Medi-Cal.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 417, as amended, Beall. Medi-Cal Drug Treatment Program: buprenorphine.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law provides for the Medi-Cal Drug Treatment Program (Drug Medi-Cal), under which each county enters into contracts with the State Department of Alcohol and Drug Programs for the provision of various drug treatment services to Medi-Cal recipients, or the department directly arranges for the provision of these services if a county elects not to do so. Existing law defines the services reimbursable under this program, and establishes contracting, billing, and reimbursement procedures governing this program.

This bill would add buprenorphine services to the list of Drug Medi-Cal services, but only if *the buprenorphine is services are either administered by a licensed narcotic treatment program and ordered or*

prescribed by a physician who complies with federal requirements ~~regarding qualifications, certification, and limitations on the number of patients for whom the physician may prescribe buprenorphine and works under the license of the narcotic treatment program or the buprenorphine services are prescribed by a physician who complies with federal requirements, but does not work under the license of a narcotic treatment program.~~

Under existing law, for purposes of Drug Medi-Cal, the department is required to establish a narcotic replacement therapy dosing fee for methadone and LAAM.

This bill would require the department to establish separate dosing fees for methadone, LAAM, and buprenorphine. The bill would also provide that for purposes of establishing the dosing fees, the department is required to include comprehensive services that include physician and medication services. *The bill would provide that in addition to the narcotic treatment therapy dosing fee, narcotic treatment programs shall be reimbursed for the ingredient costs of buprenorphine dispensed to Medi-Cal beneficiaries.*

Under existing law, the department is responsible for licensing narcotic treatment programs to use replacement narcotic therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription. Existing law authorizes licensed narcotic treatment programs to use methadone and LAAM for replacement narcotic therapy.

This bill would also authorize licensed narcotic treatment programs to use buprenorphine for replacement narcotic therapy.

This bill would provide that its provisions shall not be implemented if the Director of Health Care Services determines that they would require an unbundling of Drug Medi-Cal reimbursement rates.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11758.42 of the Health and Safety Code
- 2 is amended to read:
- 3 11758.42. (a) For purposes of this chapter, the following
- 4 definitions shall apply:

1 (1) “Buprenorphine” means buprenorphine or buprenorphine  
2 combination products approved by the federal Food and Drug  
3 Administration for maintenance or detoxification of opioid  
4 dependence.

5 (2) “LAAM” means levoalphacetylmethadol.

6 (b) (1) (A) The department shall establish separate narcotic  
7 replacement therapy dosing fees for methadone, LAAM, and  
8 buprenorphine.

9 (B) For purposes of establishing the dosing fees, the department  
10 shall include comprehensive services that include physician and  
11 medication services.

12 (2) In addition to the narcotic replacement therapy dosing fee  
13 provided for pursuant to paragraph (1), narcotic treatment programs  
14 shall be reimbursed for the ingredient costs of methadone or LAAM  
15 dispensed to Medi-Cal beneficiaries. These costs may be  
16 determined on an average daily dose of methadone or LAAM, as  
17 set forth by the department, in consultation with the State  
18 Department of Health Care Services.

19 *(3) In addition to the narcotic replacement therapy dosing fee*  
20 *provided for pursuant to paragraph (1), narcotic treatment*  
21 *programs shall be reimbursed for the ingredient costs of*  
22 *buprenorphine dispensed to Medi-Cal beneficiaries. These costs*  
23 *may be determined on an average daily dose of buprenorphine,*  
24 *as set forth by the department, in consultation with the State*  
25 *Department of Health Care Services.*

26 (c) Reimbursement for narcotic replacement therapy dosing and  
27 ancillary services provided by narcotic treatment programs shall  
28 be based on a per capita uniform statewide daily reimbursement  
29 rate for each individual patient, as established by the department,  
30 in consultation with the State Department of Health Care Services.  
31 The uniform statewide daily reimbursement rate for narcotic  
32 replacement therapy dosing and ancillary services shall be based  
33 upon, where available and appropriate, all of the following:

34 (1) The outpatient rates for the same or similar services under  
35 the fee-for-service Medi-Cal program.

36 (2) Cost report data.

37 (3) Other data deemed reliable and relevant by the department.

38 (4) The rate studies completed pursuant to Section 54 of  
39 Assembly Bill 3483 of the 1995–96 Regular Session of the  
40 Legislature.

(d) The uniform statewide daily reimbursement rate for ancillary services shall not exceed, for individual services or in the aggregate, the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(e) The uniform statewide daily reimbursement rate shall be established after consultation with narcotic treatment program providers and county alcohol and drug program administrators.

(f) Reimbursement for narcotic treatment program services shall be limited to those services specified in state law and state and federal regulations governing the licensing and administration of narcotic treatment programs. These services shall include, but are not limited to, all of the following:

(1) Admission, physical evaluation, and diagnosis.

(2) Drug screening.

(3) Pregnancy tests.

(4) Narcotic replacement therapy dosing.

(5) Intake assessment, treatment planning, and counseling services. Frequency of counseling or medical psychotherapy, outcomes, and rates shall be addressed through regulations adopted by the department. For purposes of this paragraph, these services include, but are not limited to, substance abuse services to pregnant and postpartum Medi-Cal beneficiaries.

(g) Reimbursement under this section shall be limited to claims for narcotic treatment program services at the uniform statewide daily reimbursement rate for these services. These rates shall be exempt from the requirements of Section 14021.6 of the Welfare and Institutions Code.

(h) (1) Reimbursement to narcotic treatment program providers shall be limited to the lower of either the uniform statewide daily reimbursement rate, pursuant to subdivision (c), or the provider's usual and customary charge to the general public for the same or similar service.

(2) (A) Reimbursement paid by a county to a narcotic treatment program provider for services provided to any person subject to Section 1210.1 or 3063.1 of the Penal Code, and for which the individual client is not liable to pay, does not constitute a usual and customary charge to the general public for the purposes of this section.

(B) Subparagraph (A) does not constitute a change in, but is declaratory of, existing law.

1 (i) No program shall be reimbursed for services not rendered  
2 to or received by a patient of a narcotic treatment program.

3 (j) Reimbursement for narcotic treatment program services  
4 provided to substance abusers shall be administered by the  
5 department and counties electing to participate in the program.  
6 Utilization and payment for these services shall be subject to  
7 federal Medicaid and state utilization and audit requirements.

8 (k) The amendments made to this section by the act that added  
9 this subdivision shall not be implemented if the Director of Health  
10 Care Services determines that the provisions of the act that added  
11 this subdivision would require an unbundling of Drug Medi-Cal  
12 reimbursement rates.

13 SEC. 2. Section 11758.46 of the Health and Safety Code is  
14 amended to read:

15 11758.46. (a) For purposes of this section, "Drug Medi-Cal  
16 services" means all of the following services, administered by the  
17 department, and to the extent consistent with state and federal law:

18 (1) Narcotic treatment program services, as set forth in Section  
19 11758.42.

20 (2) Day care rehabilitative services.

21 (3) Perinatal residential services for pregnant women and women  
22 in the postpartum period.

23 (4) Naltrexone services.

24 (5) Outpatient drug-free services.

25 ~~(6) Buprenorphine services, but only if buprenorphine is~~  
26 ~~prescribed by a physician who complies with federal requirements~~  
27 ~~regarding qualifications, certification, and limitations on the~~  
28 ~~number of patients for whom the physician may prescribe~~  
29 ~~buprenorphine.~~

30 *(6) Buprenorphine services, but only if at least one of the*  
31 *following conditions is met:*

32 *(A) The buprenorphine services are administered by a licensed*  
33 *narcotic treatment program and they are ordered or prescribed*  
34 *by a physician who complies with federal requirements and works*  
35 *under the license of the narcotic treatment program.*

36 *(B) The buprenorphine services are prescribed by a physician*  
37 *who complies with federal requirements, but does not work under*  
38 *the license of a narcotic treatment program.*

39 (b) Upon federal approval of a federal Medicaid state plan  
40 amendment authorizing federal financial participation in the

1 following services, and subject to appropriation of funds, “Drug  
2 Medi-Cal services” shall also include the following services,  
3 administered by the department, and to the extent consistent with  
4 state and federal law:

5 (1) Notwithstanding subdivision (a) of Section 14132.90 of the  
6 Welfare and Institutions Code, day care habilitative services,  
7 which, for purposes of this paragraph, are outpatient counseling  
8 and rehabilitation services provided to persons with alcohol or  
9 other drug abuse diagnoses.

10 (2) Case management services, including supportive services  
11 to assist persons with alcohol or other drug abuse diagnoses in  
12 gaining access to medical, social, educational, and other needed  
13 services.

14 (3) Aftercare services.

15 (c) (1) Annually, the department shall publish procedures for  
16 contracting for Drug Medi-Cal services with certified providers  
17 and for claiming payments, including procedures and specifications  
18 for electronic data submission for services rendered.

19 (2) The department, county alcohol and drug program  
20 administrators, and alcohol and drug service providers shall  
21 automate the claiming process and the process for the submission  
22 of specific data required in connection with reimbursement for  
23 Drug Medi-Cal services, except that this requirement applies only  
24 if funding is available from sources other than those made available  
25 for treatment or other services.

26 (d) A county or a contractor for the provision of Drug Medi-Cal  
27 services shall notify the department, within 30 days of the receipt  
28 of the county allocation, of its intent to contract, as a component  
29 of the single state-county contract, and provide certified services  
30 pursuant to Section 11758.42, for the proposed budget year. The  
31 notification shall include an accurate and complete budget proposal,  
32 the structure of which shall be mutually agreed to by county alcohol  
33 and drug program administrators and the department, in the format  
34 provided by the department, for specific services, for a specific  
35 time period, and including estimated units of service, estimated  
36 rate per unit consistent with law and regulations, and total estimated  
37 cost for appropriate services.

38 (e) (1) Within 30 days of receipt of the proposal described in  
39 subdivision (d), the department shall provide, to counties and  
40 contractors proposing to provide Drug Medi-Cal services in the

1 proposed budget year, a proposed multiple-year contract, as a  
2 component of the single state-county contract, for these services,  
3 a current utilization control plan, and appropriate administrative  
4 procedures.

5 (2) A county contracting for alcohol and drug services shall  
6 receive a single state-county contract for the net negotiated amount  
7 and Drug Medi-Cal services.

8 (3) Contractors contracting for Drug Medi-Cal services shall  
9 receive a Drug Medi-Cal contract.

10 (f) (1) Upon receipt of a contract proposal pursuant to  
11 subdivision (d), a county and a contractor seeking to provide  
12 reimbursable Drug Medi-Cal services and the department may  
13 begin negotiations and the process for contract approval.

14 (2) If a county does not approve a contract by July 1 of the  
15 appropriate fiscal year, in accordance with subdivisions (c) to (e),  
16 inclusive, the county shall have 30 additional days in which to  
17 approve a contract. If the county has not approved the contract by  
18 the end of that 30-day period, the department shall contract directly  
19 for services within 30 days.

20 (3) Counties shall negotiate contracts only with providers  
21 certified to provide reimbursable Drug Medi-Cal services and that  
22 elect to participate in this program. Upon contract approval by the  
23 department, a county shall establish approved contracts with  
24 certified providers within 30 days following enactment of the  
25 annual Budget Act. A county may establish contract provisions to  
26 ensure interim funding pending the execution of final contracts,  
27 multiple-year contracts pending final annual approval by the  
28 department, and, to the extent allowable under the annual Budget  
29 Act, other procedures to ensure timely payment for services.

30 (g) (1) For counties and contractors providing Drug Medi-Cal  
31 services, pursuant to approved contracts, and that have accurate  
32 and complete claims, reimbursement for services from state General  
33 Fund moneys shall commence no later than 45 days following the  
34 enactment of the annual Budget Act for the appropriate state fiscal  
35 year.

36 (2) For counties and contractors providing Drug Medi-Cal  
37 services, pursuant to approved contracts, and that have accurate  
38 and complete claims, reimbursement for services from federal  
39 Medicaid funds shall commence no later than 45 days following

1 the enactment of the annual Budget Act for the appropriate state  
2 fiscal year.

3 (3) The State Department of Health Care Services and the  
4 department shall develop methods to ensure timely payment of  
5 Drug Medi-Cal claims.

6 (4) The State Department of Health Care Services, in  
7 cooperation with the department, shall take steps necessary to  
8 streamline the billing system for reimbursable Drug Medi-Cal  
9 services, to assist the department in meeting the billing provisions  
10 set forth in this subdivision.

11 (h) The department shall submit a proposed interagency  
12 agreement to the State Department of Health Care Services by  
13 May 1 for the following fiscal year. Review and interim approval  
14 of all contractual and programmatic requirements, except final  
15 fiscal estimates, shall be completed by the State Department of  
16 Health Care Services by July 1. The interagency agreement shall  
17 not take effect until the annual Budget Act is enacted and fiscal  
18 estimates are approved by the State Department of Health Care  
19 Services. Final approval shall be completed within 45 days of  
20 enactment of the Budget Act.

21 (i) (1) A county or a provider certified to provide reimbursable  
22 Drug Medi-Cal services, that is contracting with the department,  
23 shall estimate the cost of those services by April 1 of the fiscal  
24 year covered by the contract, and shall amend current contracts,  
25 as necessary, by the following July 1.

26 (2) A county or a provider, except for a provider to whom  
27 subdivision (j) applies, shall submit accurate and complete cost  
28 reports for the previous state fiscal year by November 1, following  
29 the end of the state fiscal year. The department may settle cost for  
30 Drug Medi-Cal services, based on the cost report as the final  
31 amendment to the approved single state-county contract.

32 (j) Certified narcotic treatment program providers, that are  
33 exclusively billing the state or the county for services rendered to  
34 persons subject to Section 1210.1 of the Penal Code, Section  
35 3063.1 of the Penal Code, or Section 11758.42 shall submit  
36 accurate and complete performance reports for the previous state  
37 fiscal year by November 1 following the end of that state fiscal  
38 year. A provider to which this subdivision applies shall estimate  
39 its budgets using the uniform state daily reimbursement rate. The  
40 format and content of the performance reports shall be mutually



1 agreed to by the department, the County Alcohol and Drug Program  
2 Administrators Association of California, and representatives of  
3 the treatment providers.

4 (k) The amendments made to this section by the act that added  
5 this subdivision shall not be implemented if the Director of Health  
6 Care Services determines that the provisions of the act that added  
7 this subdivision would require an unbundling of Drug Medi-Cal  
8 reimbursement rates.

9 SEC. 3. Section 11839.2 of the Health and Safety Code is  
10 amended to read:

11 11839.2. (a) The following controlled substances are  
12 authorized for use in replacement narcotic therapy by licensed  
13 narcotic treatment programs:

14 (1) Methadone.

15 (2) Levoalphacetylmethadol (LAAM) as specified in paragraph  
16 (10) of subdivision (c) of Section 11055.

17 (3) Buprenorphine, as defined in paragraph (1) of subdivision  
18 (a) of Section 11758.42.

19 (b) The amendments made to this section by the act that added  
20 this subdivision shall not be implemented if the Director of Health  
21 Care Services determines that the provisions of the act that added  
22 this subdivision would require an unbundling of Drug Medi-Cal  
23 reimbursement rates.

24 SEC. 4. It is the intent of the Legislature that this act not result  
25 in the unbundling of reimbursement rates for Drug Medi-Cal  
26 services.